

OLC RECORD COPY

OLC 78-1003/1
15 March 1978

DOA

25X1 MEMORANDUM FOR: [REDACTED] Associate General Counsel
25X1 FROM : [REDACTED] Assistant Legislative Counsel
SUBJECT : Congressional Approval of Amendments to
CIARDS Regulations
REFERENCE : Your Memorandum to DDA, undtd, same subject

1. You requested my comments on your proposed memorandum to Mr. Blake.

2. It is my clear recollection that the House Permanent Select Committee on Intelligence requested prior review of the new regulations on CIARDS in connection with their current review of the program. They raised a number of questions as to the sufficiency of the existing regulation which is considerably outdated. Commitments were made to the Committee to clarify certain areas in the new regulation. The Committee staff wanted to review the new regulation prior to issuance to assure completeness and accordance with the commitments made.

3. It definitely serves the Agency's interests to have the Committee review, since the Committee must be assured that our implementing regulations are in accordance with the CIARDS Act. The Committee accepted the explanation that the CIARDS Act is purposely vague for security reasons and the regulation sets out the details. This is really the basis of their review.

4. I agree that the submission to HPSCI should not reference the CIARDS Act since the House Armed Services Committee still has statutory jurisdiction to review the regulation. This point need not be raised since the House Armed Services Committee acknowledged complete oversight referral of CIARDS to HPSCI and will not exercise any further jurisdiction on the subject. STAT

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Remarks: Pat, Please take a look at the attached, which I believe is self explanatory, and let me have your thoughts.			
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Remarks: George,

Would the attached from me to Jack Blake
resolve this momentous problem of submission
of CIARDS regs?

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DATE

7 Mar 78

Approved For Release 2004/10/08 : CIA-RDP81M00980R001800050090-9

010-78-01003

MEMORANDUM FOR: Deputy Director for Administration

FROM : [REDACTED]
Associate General Counsel

SUBJECT : Congressional Approval of Amendments to
CIARDS Regulations

1. In the course of the coordination of an amendment to the CIARD regulation, [REDACTED] which has been in process for some time, the question of whether the amendments should be submitted to congressional committees for their approval has arisen. The Act, in section 201(a), authorizes the Director to prescribe rules and regulations for the establishment and maintenance of the System, "such rules and regulations to become effective after approval by the chairman and ranking minority members of the Armed Services Committees of the House and Senate." President Johnson issued a statement when he approved the legislation stating that he regarded this provision as an unconstitutional intrusion into the powers of the executive branch, but because he regarded the legislation as meritorious he would approve it. He would "treat this provision as a request for consultation...and should ask the Director to comply with it on that basis." The original regulations were furnished and the chairmen and ranking minority members, by letters, approved them.

2. The regulations have been amended a number of times through the years, but I believe no amendments have been furnished the committees under the provisions of section 201. It was at least the informal opinion of John Warner when he was Deputy General Counsel and General Counsel that the Act did not require submission of amendments to regulations. Tony Lapham believes it would be desirable as a matter of policy to furnish these amendments to the committees without regard to whether the statute requires committee approval before they become effective. It is our understanding also that in conjunction with your recent testimony assurances were given, at least to the staffers of the House Committee, that amendments would be furnished. See [REDACTED] [REDACTED] note to me of 6 March 1978, attached. There is the additional argument in favor of submission that if in the event of amendments contemplated by the Agency which might be controversial or arouse criticism on the Hill it would be better to face that question in advance rather than after the fact.

It is our suggestion, therefore, that we adopt the policy of furnishing to the congressional committees copies of any new amendments to the CIARDS regulations prior to final approval by the DDA or the Director, as the case may be.

3. It will be noted that section 201 requires that the regulations go to the chairmen and ranking minority members of the Armed Services Committees. These Committees of course no longer have jurisdiction over the Agency and intelligence matters. In view of this contradiction between the statute and committee jurisdictions and in order to maintain consistency with President Johnson's position it is suggested that any submission to the Select Intelligence Committees carefully avoid any statement or indication that the statute requires submission.



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Attachment

[GENERAL LAW DIVISION ROUTING SHEET]

Approved For Release 2004/10/08 : CIA-RDP81M00980R001800050090-9

DES

TO RHL from WGI on 6 March Date: To RHL _____; Basic _____

Name of Client/Addressee: _____

Subject: Congressional Approval of CIARDS Regulations

Recommended Classification: TS, S, C, Unc. For Permanent Retention: Yes. No.

To Be Filed: _____

Comments/RHL Action Needed: .

2. FROM RHL on _____ to: AAL JDM Orig. Atty. Other

Comments/Action:

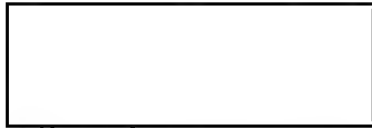
3. ADDITIONAL ROUTING/ACTIONS:

6 March 1978

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NOTE FOR:

FROM :



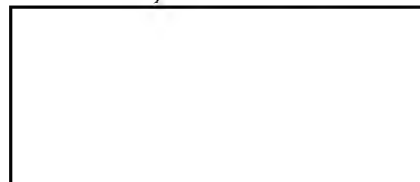
Office of General Counsel

SUBJECT : Congressional Approval of CIARDS Regulations

1. I have spoken with  and  to determine whether Mr. Blake offered to submit CIARDS regulations to Congress. In addition, I have reviewed the transcript of Mr. Blake's testimony before the House Permanent Select Committee, as well as this Agency's responses to questions submitted by that Committee.

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2. Although there is no indication from the testimony or written responses that Mr. Blake ever made a promise to the Committee, everyone I spoke with agreed that some oral assurances that the regulations would be provided were given to staffers during the give-and-take that surrounded the House inquiry. The fact of the commitment, however, has not been memorialized and, therefore, the exact nature of the commitment is not clear.



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